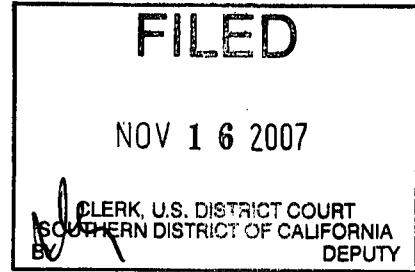


RECEIVED

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 12 United States of America



13 UNITED STATES DISTRICT COURT

14 SOUTHERN DISTRICT OF CALIFORNIA

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 v.

18 JOSE LUIS QUINTERO-ARIAS,

19 Defendant.

Criminal Case No. 07CR2878-LAB

STIPULATION AND JOINT MOTION  
 FOR RELEASE OF MATERIAL  
WITNESSES AND ORDER THEREON

20 IT IS HEREBY STIPULATED AND AGREED between the Plaintiff, UNITED STATES  
 21 OF AMERICA, through its counsel, Karen P. Hewitt, United States Attorney, and Timothy F. Salel,  
 22 Assistant U.S. Attorney, and Defendant JOSE LUIS QUINTERO-ARIAS, defense counsel, Timothy  
 23 Garrison, Esq., Federal Defenders of San Diego, Inc., that:

24 1. Pursuant to a Plea Agreement, Defendant agrees to plead guilty to Count 1 of the  
 25 Indictment in Criminal Case No. 07CR2878-LAB charging Defendant with transportation of illegal  
 26 aliens in violation of 8 U.S.C. § 1324(a)(2)(B)(ii) and 18 U.S.C. § 2.

27 2. There are two material witnesses in this case – (1) Salvador Barragan-Cruz, and (2)  
 28 Raul Lizarraga-Borguez – whose testimony is material if this case proceeded to trial. As discussed  
 further, the parties stipulate that the two material witnesses would testify to facts relevant to the  
 charges and such testimony would be admissible at trial as statements against interest of an  
 unavailable witness under Fed. R. Evid. 804(b)(3), and Defendant agrees to waive any confrontation  
 clause challenge under Crawford v. Washington, 524 U.S. 36 (2004).

- 1           3.     Material witness # 1, Salvador Barragan-Cruz, in this case:
- 2                 a.     Is an alien with no legal right to enter or remain in the United States;
- 3                 b.     Is a Mexican citizen from Tihuatlan, Vera Cruz, Mexico;
- 4                 c.     Traveled through the mountains on foot and crossed into the United States
- 5                     from Mexico;
- 6                 d.     Defendant guided him and the other material witness into the United States
- 7                     from Mexico;
- 8                 e.     Was to pay \$1,500 to be smuggled to a destination within the United States,
- 9                     namely Santa Barbara, California; and
- 10                f.     May be released to the United States Department of Homeland Security for
- 11                    return to her country of origin.

- 12           4.     Material witness # 2, Raul Lizarraga-Borguez, in this case:
- 13                 a.     Is an alien with no legal right to enter or remain in the United States;
- 14                 b.     Is a Mexican citizen from Sinaloa, Mexico;
- 15                 c.     Traveled through the mountains on foot and crossed into the United States
- 16                     from Mexico;
- 17                 d.     Defendant guided him and the other material witness into the United States
- 18                     from Mexico;
- 19                 e.     Was to pay \$1,300 or \$1,400 to be smuggled to a destination within the
- 20                     United States, namely Los Angeles, California; and
- 21                 f.     May be released to the United States Department of Homeland Security for
- 22                    return to her country of origin.

- 23           5.     After the material witnesses are ordered released by the Court pursuant to this
- 24 stipulation and joint motion, if the Defendant withdraws his guilty plea before the plea is accepted
- 25 by the District Court, the Defendant agrees that, in any proceeding including, but not limited to,
- 26 motions hearings, trial, sentencing, appeal, or collateral attack, that:

27     //

28

- 1           a.     The stipulated facts set forth above shall be admitted as substantive evidence;
- 2           b.     The United States may elicit hearsay testimony from arresting agents
- 3                 regarding any statements made by the material witnesses provided in
- 4                 discovery, and such testimony shall be admitted as substantive evidence
- 5                 under Fed. R. Evid. 804(b)(3) as statements against interest of an unavailable
- 6                 witness; and
- 7           c.     Understanding that, under Crawford v. Washington, 524 U.S. 36 (2004),
- 8                 testimonial hearsay statements are not admissible against a defendant
- 9                 unless the defendant confronted and cross examined the witness who made
- 10                the testimonial hearsay statements, Defendant waives the right to confront
- 11                and cross examine the material witnesses in this case.

12           Based on the foregoing, the parties jointly move the stipulation into evidence and move for

13     the immediate release of the above-named material witnesses for return to their respective country


14     of origin.

15           It is so STIPULATED AND AGREED.

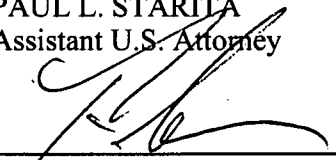
16                                 Respectfully submitted,

17                                 KAREN P. HEWITT  
18                                 United States Attorney

19     Dated: 11/15/07

20                                   
21                                 PAUL L. STARITA  
22                                 Assistant U.S. Attorney

23     Dated: 11/14/07

24                                   
25                                 TIMOTHY GARRISON  
26                                 Federal Defenders of San Diego, Inc.  
27                                 Defense Counsel

28     Dated: 11/14/07

  
JOSE LUIS QUINTERO-ARIAS  
Defendant